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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,574	10/04/2001	Masato Sakamoto	B-4325 619126-5	5356

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/972,574

Applicant(s)

SAKAMOTO ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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Priority

Applicants' response of 3/31/04 has been considered with the following results.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

This is based on figure 5 in JP 407192416, which as far as the examiner can determine is the same.

Response to Arguments

Applicant's arguments filed 3/31/04 have been fully considered but they are not persuasive. The argument focuses on the inability (?) of every feature in figure 5 of the above noted JP document not being identical with figure 1 of the present application. This is not understood since applicants are familiar with the JP language. The examiner maintains such since (see accompanying English translation of the JP document) these elements are the same.

Hence if applicants ^{are} were resolute in such a determination, then appropriate submissions to such (declaration, etc) indicative of such would overcome the above position, and so obviate the need of labeling such as prior art.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Response to Arguments

Applicant's arguments filed 3/31/04 have been fully considered but they are not persuasive. In essence, the claimed limitations (novel feature(s)) are not found in the title of the invention. If applicants are unable to rewrite a title with what they consider the novel feature(s) are, the examiner suggests the following:

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"Optical disc player having a carriage control system relying upon a multiplied periodic signal and a reproduced Te signal". The examiner will enter such at the appropriate time juncture.

Information Disclosure Statement

The IDS of 5/3/04 has been considered and made of record. Since US Publication 2002/0041543 is NOT A US PATENT DOCUMENT nor is it PRIOR ART, it has been crossed off the submitted modified 1449. The claims in the copending application have been considered in the already presented obvious Double patenting rejection in the previous and this OA.

Claim Objections

Claims 1 and 11 are objected to because of the following informalities: The claimed "drive signal producing means" fails to find clear support in the remainder of the specification (Rule 37 CFR 1.75 (d) (1)). Appropriate correction is required. The examiner interprets this element as the carriage control element #16 in figure 1.

AS FAR AS THE CLAIMS RECITE POSITIVE LIMITATIONS AND INTERPRETED BY THE EXAMINER, THE FOLLOWING REJECTIONS ON THE MERITS ARE MADE.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-10 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 407192416.

As shown/depicted in figures 1-4 therein, this document shows a carriage control circuit, wherein the error control signal is generated by the common te signal generating elements.

With respect to the periodic signal producing means, the examiner interprets such as

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a) either the standard pulse generating circuitry (including a master system pulse signal (such as a clock signal) inherently included in such devices for generating the acceleration signal/stepping signal required for the system to move the carriage/head across the radial direction of the disc; or alternatively,

b) element 6-2 in figure 2. Which the examiner concludes is a periodic signal generating means.

If applicants can convince the examiner that the pulse generating circuitry is not inherently provided for in the above noted document/system, then under 103 considerations the examiner would rely upon either Matsumoto et al or Katsuhara et al for teaching in this environment the use of providing for system clock sources (period signal generating means) as required for the systems to operate.

It would have been obvious to modify the base system of the above noted JP document with such additional clock signal sources from either of the secondary references, motivation is to provide for system clock sources in order to provide drive pulses as required.

c) With respect to the claimed drive signal and supply signal means as recited in the independent claims, these are interpreted as elements 7 and 5 in figure 5 of the JP document as required.

With respect to claim 2, the examiner interprets the signal/clock signal source(s) as analyzed above, such a functional desired result is inherent in any clock signal source.

With respect to claims 3 & 4, the JP document uses a threshold circuit – see Vz in figures 1, and or 2.

With respect to claims 5, 6, 9 & 10, the output C1 as depicted in figure 3 for instance clearly depicts a resultant signal waveform, which flows from the appropriate electronic circuits to yield a multiplication of the two inputs signals.

With respect to claims 7 & 8, the partial periodic signal ability is considered inherently taught/provided for by the above noted JP document – see the circuitry of figure 6 for instance.

Response to Arguments

Applicant's arguments filed 3/31/04 have been fully considered but they are not persuasive.

Applicants' focus on the first three claimed elements found in claim 1. As previously indicated:

a) the error signal producing means is interpreted as applicants' te signal source producing element,

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b) the periodic signal producing means is either a) inherent – see element 6-2 in figure 2, or alternatively would be obvious in view of either of the secondary references, and

c) the drive signal producing means is element 16.

With respect to the alternative 103 rejection presented in the above action, lack of motivation to combine periodic signal and error signal, the secondary references were cited as illustrative of providing/teaching in this environment of a clock signal source. The requirement of a clock source follows from at least the label "clock" contained in figure 4 (see the bold lettering CLOCK). Hence the motivation to have a clock source is considered present.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-10 and 11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3,5,7,9,11,13,15,17,19, and 21 of copending Application No. 09/972441. Although the conflicting claims are not identical, they are not patentably distinct from each other because the provision of a duty ratio means as the particular element to generate a changed period signal, as opposed to a steady-state period signal is merely one of degree. That is the period signals can either be a steady-state/continuous, or a varying period signal, which are obvious variants thereof.

The dependent claims 2-10 are met by the above-identified dependent claims 3,5,7,9,11,13,15,17 and 19 and fall accordingly.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Response to Arguments

Because no arguments have been presented, no rebuttal is necessary.

Claim Rejections - 35 USC § 102

3. Claims 1, 2 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamaguchi et al.

The Hamaguchi et al reference discloses in this environment an optical disc access mechanism having:

a) error signal producing means – see col. 4 lines 1-30.

b) periodic signal producing means – the operation of the carriage drive during the seek operation as noted in col. 4 lines 29-30 for instance,

c) drive producing means – elements yielding the output of element 52

d) drive signal supplying means – elements yielding the output of element 54.

The oscillator 46 is interpreted as meeting the limitations of claim.

The Hamaguchi et al reference was cited by applicant in their IDS communication, and hence have had ample time to review the document and the claims at bar.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.

Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.

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Any inquiry concerning the merits of this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
Art Unit 2653



AMP